

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SANDRA H. EMOND and U.S. POSTAL SERVICE,
POST OFFICE, Fiskdale, MA

*Docket No. 01-1109; Submitted on the Record;
Issued December 5, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant's herniated disc condition was causally related to her federal employment.

On April 12, 2000 appellant, then a 48-year-old mail carrier, filed an occupational disease claim asserting that her herniated disc was a result of driving on rural roads in the performance of her duties. She stated that, eventually, everything from standing and sorting the mail to lifting parcels aggravated her condition. To support her claim she submitted a detailed chronology of her physical complaints and medical course.

On May 16, 2000 the Office of Workers' Compensation Programs requested that appellant submit additional information, including a comprehensive medical report from her physician providing an opinion, with medical reasons, on the cause of her condition.

The Office received reports from Dr. Veronica Rusu, a neurologist consultant. Dr. Rusu noted that a magnetic resonance imaging (MRI) scan on March 23, 2000 showed a large right paracentral disc herniation¹ with significant compression of the thecal sac and right S1 nerve root. He diagnosed L5-S1 herniated disc and secondary L5-S1 radiculopathy.

In a decision dated August 2, 2000, the Office denied appellant's claim on the grounds that the evidence was insufficient to establish a causal relationship between her disc condition and employment factors.

Appellant requested reconsideration and submitted medical opinion evidence to support her claim.

¹ The MRI report indicated disc degeneration at L5-S1 with no focal disc herniation or spinal canal compromise at the other levels of the lumbar spine.

In an August 25, 2000 report, Dr. J.J. Paulhaus, a specialist in occupational medicine, related appellant's history and his findings on examination. He diagnosed right sciatica secondary to an L5 herniated nucleus pulposus. Dr. Paulhaus reported: "It seems that the patient's condition could reasonably have been caused by her job which consisted of 15 years of rural carrier work in a Jeep-like vehicle with a relatively significant amount of bouncing and jouncing."

In an August 29, 2000 report, Dr. Rusu related the following:

"The patient has been out of work since February. She had an extensive evaluation including neurology consult, physical therapy and occupational medicine consultation in the past. The patient is a rural carrier with the [employing establishment] and has been doing this work for about 15 years, working 6 days a week. Her job consists of driving a Jeep-type vehicle on the roads in the countryside, which can be a contributory factor for her acute back pain. It seems that the patient's condition could reasonably have been caused by her job which consists of 15 years of rural carrier work in a Jeep-like vehicle with a relatively significant amount of bouncing and subsequent back injuries.

"At this point, the patient cannot sustain a full-time job."

In a decision dated December 7, 2000, the Office conducted a merit review of appellant's claim and denied modification of its prior decision.

The Board finds that the medical evidence is insufficient to establish that appellant's disc condition is causally related to her federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of proof to establish the essential elements of her claim. When an employee claims that she sustained an injury in the performance of duty, she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. She must also establish that such event, incident or exposure caused an injury.³

Appellant attributes her L5-S1 disc condition to driving on rural roads, with subsequent aggravation from standing and sorting mail and lifting parcels. There is no dispute in this case that appellant performs such duties in her federal employment. She has therefore established that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. The question for determination is whether her employment duties or activities caused an injury.

² 5 U.S.C. §§ 8101-8193.

³ See generally *John J. Carlone*, 41 ECAB 354 (1989); *Abe E. Scott*, 45 ECAB 164 (1993); see also 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. §§ 10.5(a)(15)-.5(a)(16) ("traumatic injury" and "occupational disease or illness" defined).

Causal relationship is a medical issue⁴ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁵ must be one of reasonable medical certainty⁶ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁷

Both Dr. Rusu and Dr. Paulhaus reported that appellant's condition "could reasonably have been caused by her job." Although these opinions are generally supportive of appellant's claim, the critical element of causal relationship cannot be established on a mere possibility. The opinion of the physician must be one of reasonable medical certainty. It is not necessary that the evidence be so conclusive as to suggest causal connection beyond all possible doubt. The evidence required is only that necessary to convince the adjudicator that the conclusion drawn is rational, sound and logical.⁸

The opinions of Dr. Rusu and Dr. Paulhaus are of little probative value because they are equivocal, admitting only to the possibility of a causal relationship without offering an actual opinion one way or the other.⁹ The opinions also lack the medical reasoning necessary to establish causal relationship. Neither Dr. Rusu nor Dr. Paulhaus discussed, from a pathophysiological perspective, how "a relatively significant amount of bouncing" in a postal vehicle either precipitated the disc degeneration revealed on the March 23, 2000 MRI or at least contributed to the aggravation of this condition. The physicians did not explain whether they could differentiate appellant's L5-S1 condition from a natural progression of a preexisting disease such that it would be medically rational and logical to implicate the driving of rural roads as a competent producing or contributing factor.¹⁰

The mere fact that a condition manifests itself or worsens during a period of federal employment does not raise an inference of causal relationship between the two.¹¹ Because

⁴ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁵ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁶ *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁷ *See William E. Enright*, 31 ECAB 426, 430 (1980).

⁸ *Kenneth J. Deerman*, 34 ECAB 641, 645 (1983) and cases cited therein at note 1.

⁹ *Philip J. Deroo*, 39 ECAB 1294 (1988) (although the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute medical certainty, neither can such opinion be speculative or equivocal); *Jennifer Beville*, 33 ECAB 1970 (1982) (physician's statement that the employee's complaints "could have been" related to her work injury was speculative and of limited probative value).

¹⁰ *See Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954) (medical conclusions unsupported by rationale are of little probative value).

¹¹ *Steven R. Piper*, 39 ECAB 312 (1987).

appellant has submitted no rationalized medical opinion evidence establishing the element of causal relationship, she has not met her burden of proof.

The December 7, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
December 5, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member